



2nd Floor  
Eland House  
Bressenden Place  
London SW1E 5DU

Date: 20.12.12

Dear 

1. I am writing in response to your questions presented at the Chilterns Community Forum and the Chalfont St Peter's consultation event.
2. You have stated that the noise from HS2 will '....blight property, affect resident's health and quality of life and render ....Chiltern AONB unattractive to the millions of people who ...support many businesses in this area' and queried why we will not 'provide financial compensation based on market loss to residents on a timely basis- now- for this hardship.' The adverse effects of generalised blight are very difficult to measure. Concerns about properties and businesses in the area of the railway are liable to change naturally over time as plans for HS2 become firmer and many houses and businesses currently suffering 'market loss' will regain this loss over time. The extent of the difficulties caused by generalised blight depends very much on the circumstances of the individuals concerned. However, the Government recognises that people are concerned about how the property market is affected now, and will be continue to be until HS2 is built. That is why the Government has proposed a range of measures that are currently being consulted on.
3. For ease I have grouped our answers under headings reflecting the topics of your other questions.

#### **Voluntary Purchase Zone (VPZ)**

4. The proposed VPZ is a measure which aims to reduce generalised blight resulting from market perceptions (which may or may not reflect actual future impacts of the railway). The VPZ is described as a discretionary scheme as there is no legal requirement for the Government to introduce such a case and it is at the discretion of the home owner if they want to apply for the scheme. The only time 'discretion' will apply to an application under the scheme is when the property is not wholly within the VPZ and a more detailed assessment needs to be carried out (see paragraph 7 below).
5. Regarding your questions about the operation of the scheme, and how DfT is assessing those in the VPZ - as described in chapter 2 of the Property and Compensation Consultation Guidance notes, the proposals are that those applying

under the VPZ do not have to serve a blight notice, and that there is no hardship or effort to sell criteria nor an appeal process. The Lands Tribunal offers an appeal route for matters of law, but as this is a discretionary scheme there is no legal obligation for the Government to accept cases under it. As now, a person could also go to the Parliamentary Ombudsman if they feel that they have been treated unfairly or received poor service. Judicial review would also be an option if an applicant felt the decision itself had been unlawful. This would apply to any application under any of the proposed compensation schemes.

6. As described in paragraph 2.12 of the consultation document, the VPZ proposals for a 240m corridor reflect the view that the property market in close proximity to the safeguarded area is likely to be most affected as the uncertainty generated by the railway impacts on peoples' ability to sell their properties. Also, a fixed 240m VPZ in rural areas was the approach taken for HS1 and the Government believes it is fair to use the same coverage for those affected by HS2. The separate proposal that searches should reveal properties within 200m of surface safeguarding (contained in the draft guidance for Local Authorities on page 20 of the safeguarding consultation document) is based on previous projects, including Crossrail, which have used this same distance.

7. Regarding your questions about those only partially within the VPZ, case-by-case means that each application that falls within this situation will be looked at on an individual basis according to the circumstances. As there would be wide variation in each application of this type, every situation cannot be predetermined, therefore, the proposed scheme, as it stands, does not have a set of 'decision' criteria for accepting or contesting applications; nor a definition of a typical residential property or small part of a much larger property; nor sets out what significant means.

8. Once the consultation is completed and the results analysed, the Government will make a decision on the scheme and any application process will depend on this decision.

### **February 2011 Consultation Document**

9. The reference in the February 2011 Consultation Document that you refer to relates to a number of issues that the Government was considering as part of the development of its proposals on property and compensation at that time. For those outside the VPZ, the new hardship scheme or statutory part 1 compensation might apply. The hardship scheme is for owners outside the voluntary purchase zone who have strong personal reasons to move but cannot do so, other than at a significant loss, because of HS2. Significant loss, in this context, is described in paragraph 4.8 (p22) of the Property and Compensation consultation document and relates to receiving no offers within 15% of its un-blighted, open market property price (i.e. realistic asking price). The existing legal framework sets out the standard approach to compensation for infrastructure projects, as they have been approved by Parliament

over the years. For HS2, the Government has set out consultation proposals which go beyond this in a number of ways.

#### Hardship Scheme

10. The Property and Compensation consultation document contains 5 pages on the proposed hardship scheme, including sections on the criteria and process. This is shown by the differences between the proposed scheme and the differences of the current EHS. These differences are:

- Hardship criterion - Under the new scheme, where an applicant did not have an immediate need to sell their property but would need to sell in the near future (i.e. within 3 years) to avoid suffering hardship, it should be possible to accept that this criterion has been met without waiting for that need to become urgent.
- Reapplication: - If the first application under the scheme is unsuccessful for whatever reason, when re-applying within 6 months of the previous decision, applicants will only have to re-apply under the criterion/s under which they were previously unsuccessful. Currently under EHS a reapplication is treated as a new application and all criteria are looked at again.
- Category of applicants - The proposed Hardship Scheme would only be open to residential applicants, whereas previously the EHS was open to residential, small businesses and agricultural units. This is because the situation we will now have is different from before. Previously, the only option for any of these categories of owner, wherever their property was located, was the EHS. But once safeguarding is in place, any agricultural or small commercial (or residential) owner of property within that area will be able to serve a blight notice and claim full compensation. Also any such owner within the VPZ will be able to sell their property to the Government at the un-blighted market value. Also the long term hardship scheme applies to a narrower geographical area, further away from the line, and is aimed at situations where people need to sell their home to avoid hardship, but can't because of HS2. We do not anticipate that businesses or farms this far away from the line are likely to be affected by property blight in the same way.
- The applicant will need to have had the property on the market for at least 12 months prior to applying to the scheme (having made all reasonable efforts to sell) and not had an offer within 15% of its un-blighted open market price compared to the current EHS criteria of having marketed it for 3 months and received no offers within 15%.

11. You have asked what will happen if there are any changes in the proposed criteria arising from the consultation and stated that there is no detailed definition of how cases will be judged. At the moment we cannot say what will happen if there any changes in the proposed criteria arising from the consultation. And, as set out in paragraph 4.26, of the consultation document, if the Government decides to proceed with this scheme, further detailed guidance will be provided.

### **Sale and Rent Back Scheme**

12. As stated in chapter 3 of the consultation document, it is proposed that this scheme will not apply to the whole safeguarded area, but only to those properties which will later be required for demolition. The reasons for this are set out in paragraph 3.6. of the chapter.

### **Council Tax Band Reassessment**

13. Any person can appeal their council tax band to the Valuation Office Agency (VAO) if substantial physical changes have taken place in the area where they live since the property was first banded and they believe this has reduced the value of their property. It would then be a matter for the Valuation Office to decide on the question of whether a construction compound was a substantial physical change. If any decision by the VAO in relation to HS2 led to a decrease in the Council Tax received by the Local Authority they could, theoretically, complain to Central Government and ask for compensation. It would then be a decision for the Government as to whether compensation should be awarded or not. In the longer term, the actual physical effects of the railway on property values will be compensatable under existing law. There was no specific sum allocated to a possible future decrease in Local Authority Council Tax receipts in the BCR.

### **Property Bond**

14. As stated in the January Review of Property Issues, the Government believes that the property bond has unacceptable costs and risks. There is no public sector precedent for such a scheme, nor is there conclusive evidence from the private sector that a property bond scheme could operate successfully across the full life of a project. Attempting an untested approach for such a large scheme as HS2 might actually increase hardship for property owners affected by HS2. This is because if it did not operate effectively people with an urgent need to sell and who were unable to do so on the open market would be left with no access to compensation. This was a decision made by the Secretary of State for Transport and HS2 Ltd does not have the information you requested. You may wish to ask the Department for Transport for more information.

### **Property Compensation Leaflet**

15. The leaflet was delivered to around 43,000 addresses. Every postcode that was intersected by a boundary line that we created 500m either side of the London-West Midlands HS2 route in rural areas and 150m in urban and tunneled areas was sent a leaflet. Please note that if only part of a postcode was within the perimeter, every address within it would have been sent the leaflet.



16. Finally you asked how comments are fed back to DfT. Any comments you have can be sent directly to DfT. Details of how to contact DfT can be found on their website-. <https://www.gov.uk/government/organisations/department-for-transport>. Please note that only those responses received by the methods on the consultation website will be taken into account. I hope that you will take the opportunity of the consultation to offer your views.

Yours sincerely

Karen MacKnight  
Freedom of Information Manager